

REMARKS

In the Final Office Action dated December 24, 2008, the Examiner rejected claims 23, 28, 29, 32-36, and 39-42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,976,370 to Medworth ("Medworth"); rejected claims 23, 32-34, 37, 38, and 43 under 35 U.S.C. § 102(b) as being anticipated by U.S. 3,730,348 to Weis ("Weis"); rejected claims 23, 24, 32-35, 37, 44, and 52-57 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,776,907 to Barlow ("Barlow"); rejected claims 23, 24, 26-35, 37, 44, 46-56, 60, 70, and 71 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,637,214 to Kahana ("Kahana"); rejected claims 38 and 59 under 35 U.S.C. § 103(a) as being unpatentable over *Kahana* in view of U.S. Patent No. 4,421,646 to Correge et al. ("Correge"), *Weis*, and U.S. Patent No. 3,317,044 to Marks ("Marks"); and rejected claim 58 under 35 U.S.C. § 103(a) as being unpatentable over *Barlow* in view of U.S. Patent No. 5,545,318 to Richmond ("Richmond").

By this amendment, Applicant has amended claims 23, 24, 26-32, 34, 35, 37, 38, 43, 44, 54, 57, and 70 and has added new claim 72. Claims 33, 36, 39-42, 53, and 56 have been cancelled. Accordingly, claims 23, 24, 26-32, 34, 35, 37, 38, 43, 44, 46-52, 54, 55, and 57-72 are currently pending. No new matter is presented by this Amendment.

Section 102(b) Rejection of Claims as Being Anticipated by Medworth

In the Final Office Action, the Examiner rejected claims 23, 28, 29, 32-36, and 39-42 under 35 U.S.C. § 102(b) as being anticipated by *Medworth*. In order to properly anticipate Applicant's claims under §102, a single prior art reference must disclose each

and every element of the claim at issue, either expressly or under principles of inherency. Further, “[t]he identical invention must be shown in as complete detail as is contained in the. . . claim.” See M.P.E.P. § 2131. Applicant requests that this rejection be withdrawn because *Medworth* does not disclose each and every element of the claims.

For example, *Medworth* discloses “[a]n underdrain for a media filter used to filter liquids.” (Abstract.) The Examiner contends that *Medworth* discloses “the filter element ha[ving] a shape of a substantially plane disc (col. 2, lines 45-50).” (Office Action at 4.) Applicant disagrees. *Medworth* discloses that:

The underdrain system 10 of the present invention includes a set of upper perforated plates 24 and a set of lower perforated plates 26. The plates 24 and 26 are arranged close together in the filter chamber 12 at inclined angles in an arrangement forming two triangles in cooperation with the lateral bottom 20. The two legs of each triangle which are formed by the panels 24 and 26 meet at an apex 28 which is centered above the underlying drain pipe 22. This triangular arrangement of the plates 24 and 26 provides structural strength to the underdrain structure. It should be noted, however, that the plates can be arranged in other configurations and may be horizontal or curved plates located one above the other, for example. (Col. 2, lines 38-50, emphasis added.)

In other words, *Medworth* discloses that the profile of plates 24 and 26 may form two triangles (see also Fig. 2). *Medworth* discloses that alternatively, the plates may be arranged in other configurations, such as using the plates horizontally or using plates with a curved profile one above the other (rather than forming triangles). *Medworth*, however, does not disclose “wherein the filter is formed by a filter element having a shape of a substantially planar disc” (emphasis added), as recited in amended

independent claim 23. Moreover, *Medworth* clearly discloses an underdrain filter made of two plates. To the contrary, the filter of the claimed invention is formed of a single substantially planar disc-shaped filter element.

Accordingly, independent claim 23 is allowable over *Medworth* and the § 102(b) rejection of independent claim 23 should be withdrawn. Additionally, claims 28, 29, 32-36, and 39-42 are allowable over *Medworth* due at least to their dependence from amended independent claim 23 and due to their additional recitations of patentable subject matter. Applicant requests that the Examiner withdraw the § 102(b) rejection of dependent claims 28, 29, 32-36, and 39-42 as well.

Section 102(b) Rejection of Claims as Being Anticipated by *Weis*

The Examiner also rejected claims 23, 32-34, 37, 38, and 43 under 35 U.S.C. § 102(b) as being anticipated by *Weis*. Applicant respectfully requests that the Examiner withdraw this rejection. Applicant requests that this rejection be withdrawn because *Weis* does not disclose each and every element of the claims.

Weis discloses “[a] filter strainer assembly for use in filtering apparatus.” (Abstract.) *Weis* further discloses that “the invention comprises a strainer composed of two parts, a hollow frustro-conical strainer member having a plurality of apertures or ports in its conical sidewall, and a vertical tubular center section passing through a central aperture in the top of the strainer member.” (Col. 2, lines 9-12, emphasis added.) *Weis*, however, does not disclose “wherein the filter is formed by a filter element having a shape of a substantially planar disc” (emphasis added), as recited in amended independent claim 23. *Weis* does not disclose a filter having the shape of a substantially planar disc. Moreover, *Weis* clearly discloses a strainer made of two parts.

To the contrary, the filter of the claimed invention is formed of a single substantially planar disc-shaped filter element.

Accordingly, independent claim 23 is allowable over *Weis* and the § 102(b) rejection of independent claim 23 should be withdrawn. Additionally, claims 32-34, 37, 38, and 43 are allowable over *Weis* due at least to their dependence from amended independent claim 23 and due to their additional recitations of patentable subject matter. Applicant requests that the Examiner withdraw the § 102(b) rejection of dependent claims 32-34, 37, 38, and 43 as well.

Section 102(b) Rejection of Claims as Being Anticipated by *Barlow*

Claims 23, 24, 32-35, 37, 44, and 52-57 were rejected under 35 U.S.C. § 102(e) as being anticipated by *Barlow*. Applicant respectfully requests that the Examiner withdraw this rejection. Applicant requests that this rejection be withdrawn because *Barlow* does not disclose each and every element of the claims.

Barlow discloses “a generally hollow distributor tube 18. This generally hollow distributor tube 18 is preferably made of a rigid polymer, and is preferably positioned approximately in the axial center of the tank 12. The generally hollow distributor tube 18 provides for ingress of the incoming water into, and downward movement through, the tank 12.” (Col. 4, lines 45-51, emphasis added.) *Barlow* also discloses an “upper distributor basket 38 [that] is preferably made of a hard polymeric material. Like the generally hollow distributor tube 18, the upper distributor basket 38 includes thin, rectangular slots 40 through which water can flow.” (Col. 5, lines 40-43, emphasis added.) *Barlow*, however, does not disclose “wherein the filter is formed by a filter

element having a shape of a substantially planar disc," as recited in amended independent claims 23 and 44.

Accordingly, independent claims 23 and 44 are allowable over *Barlow* and the § 102(b) rejection of independent claims 23 and 44 should be withdrawn. Additionally, claims 24, 32-35, 37, and 52-57 are allowable due at least to their dependence from at least one of amended independent claims 23 or 44 and due to their additional recitations of patentable subject matter. Applicant requests that the Examiner withdraw the § 102(b) rejection of dependent claims 24, 32-35, 37, and 52-57.

Section 103(a) Rejections

Claims 23, 24, 26-35, 37, 44, 46-56, 60, 70, and 71 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Kahana*. Applicant respectfully requests that the Examiner withdraw this rejection because *Kahana* does not teach, suggest, or disclose every element of the claims.

Kahana discloses "[a] filter assembly adapted to be used in a water treatment apparatus for removing impurities from tap water." (Abstract.) The device of *Kahana* includes:

[A] filter housing 34 ha[ving] a central portion composed of a pair of angled, circumferential surfaces 56, 58 and a lower end 60 having an angled circumferential surface 62 with a plurality of apertures preferably in the form of elongate slots 64 formed therein. The housing 34 also has an annular, planar bottom face 66, and a frustoconical member 68 (shown more clearly in FIG. 7) that extends upwardly from the central portion of the annular face 66 and has a circumferential side surface 70 with a plurality of elongate slots 72 formed therein. (Col. 2. line 64 - col. 3, line 6, emphasis added.)

Kahana, however, does not disclose “wherein the filter is formed by a filter element having a shape of a substantially planar disc,” as recited in amended independent claims 23 and 44. Further, using a different configuration than the frustoconical member 68 of *Kahana*, would destroy a principle of operation of *Kahana*. For example, *Kahana* discloses a filter bag 38 that when “placed within the filter housing 34 and the lid 36 is placed on the filter housing 34, the frustoconical member 68 supports the filter bag 38 above the annular bottom portion 66 so that an annular chamber 84 is formed, the annular chamber 84 being substantially unobstructed by the filter bag 38 and having the relatively wide elongate slots 64 to facilitate escape of filtered water from the filter assembly 16 into the pitcher 12.” (Col. 3. lines 49-56, emphasis added, see also Fig. 7.) Thus, using a different configuration than the frustoconical member 68 of *Kahana*, would destroy the ability of *Kahana* to facilitate escape of filtered water from the filter assembly 16 into the pitcher 12.

Accordingly, *Kahana* does not teach, disclose, or suggest every element of amended independent claims 23 or 44, and are thus, allowable over this reference. Applicant requests that the § 103(a) rejection of independent claims 23 and 44 should be withdrawn. Additionally, claims 24, 26-35, 37, 46-56, 60, 70, and 71 are allowable due at least to their dependence from at least one of amended independent claims 23 or 44 and due to the claims additional recitations of patentable subject matter. Applicant requests that the Examiner withdraw the § 103(a) rejection of dependent claims 24, 26-35, 37, 46-56, 60, 70, and 71.

The Examiner also rejected claims 38 and 59 under 35 U.S.C. 103(a) as being unpatentable over *Kahana* in view of *Correge, Weis, and Marks*.

Correge discloses "a filtering device for treating any effluents, which comprises a plurality of filtering walls arranged successively between a chamber containing the effluent to be filtered and a chamber containing the filtered effluent, each filtering wall being constituted by spacedly juxtaposed strips having a trapezoidal section with the large base of the trapezoid located on the inlet face of a the filtering wall." (Abstract.)

As described previously, *Weis* discloses "[a] filter strainer assembly for use in filtering apparatus." (Abstract.) *Weis* further discloses that "the invention comprises a strainer composed of two parts, a hollow frustro-conical strainer member having a plurality of apertures or ports in its conical sidewall, and a vertical tubular center section passing through a central aperture in the top of the strainer member." (Col. 2, lines 9-12, emphasis added.)

Marks discloses a water conditioning apparatus with a "tank 1 and . . . annular passage 10, the upper end of the sleeve 9 [being] provided with a series of slits 13. In addition, the lower end of the sleeve 9 is enlarged as indicated by 14 and the enlarged section is provided with a series of slits 15." (Col. 2, lines 28-32.)

However, *Correge*, *Weis*, and *Marks* do not teach, disclose, or suggest "wherein the filter is formed by a filter element having a shape of a substantially planar disc," as recited in amended independent claims 23 and 44. Accordingly, *Correge*, *Weis*, and *Marks* do not remedy the deficiencies of *Kahana* described above. For at least this reason, the Examiner should withdraw the § 103 rejection of claims 38 and 59 and allow the claims.

Claim 58 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Barlow* in view of *Richmond*.

As described previously, *Barlow* discloses “a generally hollow distributor tube 18. This generally hollow distributor tube 18 is preferably made of a rigid polymer, and is preferably positioned approximately in the axial center of the tank 12. The generally hollow distributor tube 18 provides for ingress of the incoming water into, and downward movement through, the tank 12.” (Col. 4, lines 45-51, emphasis added.) *Barlow* also discloses an “upper distributor basket 38 [that] is preferably made of a hard polymeric material. Like the generally hollow distributor tube 18, the upper distributor basket 38 includes thin, rectangular slots 40 through which water can flow.” (Col. 5, lines 40-43, emphasis added.)

Richmond discloses a water valve inlet screen with ribs. *Richmond* also discloses that “[t]he downstream end 60 of the inlet screen 22 includes a serrated flange 66 with a flange circumference 88 and flange passages 90.” (Col. 5, lines 59-61.)

However, *Richmond* does not teach, disclose, or suggest “wherein the filter is formed by a filter element having a shape of a substantially planar disc,” as recited in amended independent claim 44. Accordingly, *Richmond* does not remedy the deficiencies of *Barlow* described above. For at least this reason, the Examiner should withdraw the § 103 rejection of claim 58 and allow the claim.

New Claim 72

New independent claim 72 recites, among other things, “first filter being formed by a filter element having a shape of a substantially planar disc.” Thus, for at least the reasons discussed above, Applicant submits that new independent claim 72 is allowable over *Medworth*, *Weis*, *Barlow*, *Kahana*, *Correge*, *Marks*, and *Richmond*. Accordingly, Applicant requests that the Examiner allow this claim.

Conclusion

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 23, 24, 26-32, 34, 35, 37, 38, 43, 44, 46-52, 54, 55, and 57-72 in condition for allowance.

Further, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of this Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance. Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge
any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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